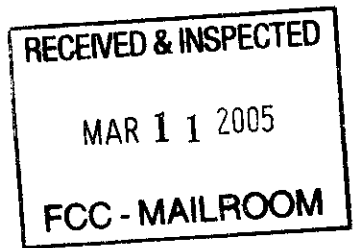


**Before the  
Federal Communications Commission  
Washington, D.C. 20554**



In the Matter of	)	EB Docket No. 02-149
	)	
Publix Network Corporation; Customer	)	File No. EB-01-TC-052
Attendants, LLC; Revenue Controls Corporation;	)	FRN: 0004-3412-51
SignTel, Inc.; and Focus Group, LLC	)	
	)	
Order to Show Cause and	)	
Notice of Opportunity for Hearing	)	
	)	

**CONSENT DECREE**

1. The Enforcement Bureau of the Federal Communications Commission, Dr. Raanan Liebermann ("Dr. Liebermann"), and the Publix Companies (as hereinafter defined) hereby enter into this Consent Decree for the purpose of terminating the above captioned proceeding (the "Proceeding") initiated by an Order to Show Cause and Notice of Opportunity for Hearing ("Order to Show Cause") issued by the Commission on June 19, 2002.<sup>1</sup>

2. For purposes of this Consent Decree, the following definitions shall apply.

- (a) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
- (b) The "Publix Companies" or "Publix" means Publix Network Corporation, Publix Relay, Customer Attendants, LLC, Revenue Controls Corporation, SignTel, Inc., Focus Group, LLC, and their principals, affiliates, d/b/a, predecessors-in-interest, parent companies, any wholly or partially owned subsidiaries, or their affiliated companies or businesses and their successors and assigns.
- (c) "Effective Date" means the date on which the Order becomes a Final Order.
- (d) "FCC" or the "Commission" means the Federal Communications Commission and all of its bureaus and offices.
- (e) "Final Order" means an order that is no longer subject to administrative or judicial reconsideration, review, appeal, or stay.
- (f) "Order" means the order of the Presiding Officer adopting the terms of this Consent Decree without change, addition, or modification.

<sup>1</sup> See *Publix Network Corp.*, Order to Show Cause and Notice of Opportunity for Hearing, 17 FCC Rcd 11487 (2002).

- (g) "Order to Show Cause" means the Order to Show Cause and Notice of Opportunity for Hearing, 17 FCC Rcd 11487 (2002).
- (h) The "Parties" means Dr. Raanan Liebermann, the Publix Companies, and the Bureau.
- (i) The "Plea Agreements" mean the agreements signed by Dr. Liebermann on September 30, 2004 and subsequently entered by the United States District Court for the District of Connecticut.
- (j) The "Proceeding" means the evidentiary hearing initiated by the Order to Show Cause.
- (k) The "Reimbursement Amount" means \$7,963,875 and is the amount the Fund Administrator paid to the Publix Companies for the provision of TRS.
- (l) "TRS" means telephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio.
- (m) The "Fund Administrator" means the entity appointed by the Commission to administer the interstate Telecommunications Relay Services Fund ("TRS Fund").

## **I. BACKGROUND**

3. On June 19, 2002, the Commission released the Order to Show Cause, initiating an evidentiary hearing to determine whether: (1) the Commission should revoke the operating authority of the Publix Companies; (2) the Publix Companies and the principal or principals (including but not limited to Dr. Liebermann) of the Publix Companies should be ordered to cease and desist from any future provision of interstate common carrier services without the prior consent of the Commission; (3) the Publix Companies are entitled to any of the TRS Fund monies that they requested or received from the interstate TRS Fund; and (4) a forfeiture against any or all of the Publix Companies is warranted and, if so, the amount of the forfeiture. The Bureau was made a party to the Proceeding. The matter was assigned to Chief Administrative Law Judge Richard L. Sippel, ("Presiding Officer").

4. On September 30, 2004, Dr. Liebermann and Publix Network Corporation entered into Plea Agreements with the U.S. Attorney's Office for the District of Connecticut ("U.S. Attorney's Office").<sup>2</sup> As part of the Plea Agreements, Dr. Liebermann and Publix Network Corporation pled guilty to a substitute information, which charged them both with: (1) making a false statement to the FCC through the Fund Administrator, which currently is the National Exchange Carrier Association ("NECA") in violation of 18 U.S.C. § 1001; and (2) engaging in an unlawful monetary transaction, in violation of 18 U.S.C. § 1957. (In return for their pleas to these offenses, the U.S. Attorney's Office agreed to dismiss the original indictment.) Dr. Liebermann and Publix Network Corporation admitted requesting and receiving reimbursement from the TRS Fund for calls that included minutes where no meaningful communication was occurring, because the participants were "dotting" – striking the "period" or "dot" key on their text telephones on a regular basis in order to prevent their telephones from being disconnected from a conference call. Dr. Liebermann and Publix Network Corporation further admitted that they knew that the claims they submitted and caused to be submitted to NECA for

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<sup>2</sup> See Letter from Kevin J. O'Conner, United States Attorney, to Gates Garrity-Rokous, Wiggin & Dana, (September 30, 2004) ("Plea Agreement Letter").

reimbursement from the TRS Fund were materially false, fictitious, or fraudulent, because the reimbursement requests included claims for minutes that they knew did not involve any meaningful communications, but were instead artificially generated through the practice of "dotting."<sup>3</sup>

## II. AGREEMENT

5. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties of the Proceeding and the Order to Show Cause. In consideration for the termination of this Proceeding in accordance with the terms of this Consent Decree, the Parties agree to the terms, conditions, and procedures contained herein.

6. Dr. Liebermann and the Publix Companies admit that the FCC has jurisdiction over them and the subject matter of this Proceeding for the purposes of this Consent Decree. Dr. Liebermann and the Publix Companies represent and warrant that they are the properly named parties to this Consent Decree. The Publix Companies further represent and warrant that they have caused this Consent Decree to be executed by their authorized representative, Dr. Liebermann, as a true act and deed, as of the date affixed next to said representative's signature. Dr. Liebermann and the Publix Companies respectively affirm and warrant that he is acting in his capacity and within his authority as a corporate officer of the Publix Companies, and on behalf of the Publix Companies, and that by his signature Dr. Liebermann is binding the Publix Companies to the terms and conditions of this Consent Decree. The Publix Companies and their principal, Dr. Liebermann, also state that they have been represented by counsel of their choice in connection with this Consent Decree and they are fully satisfied with the representation of counsel.

7. Dr. Liebermann and the Publix Companies waive their right to a hearing on the issues not already adjudicated that are designated in the Order to Show Cause, including all of the usual procedures for preparation and review of an initial decision. Dr. Liebermann and the Publix Companies waive their right to judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided the Presiding Officer issues the Order without change, addition, or modification of this Consent Decree.

8. The Bureau agrees that, in the absence of material new evidence of separate and additional violations by Dr. Liebermann and the Publix Companies, not related to issues described in the Order to Show Cause, the Bureau will not use the facts developed in this Proceeding, or the existence of this Consent Decree, to institute, on its own motion, any new proceedings, formal or informal, or to take any action on its own motion or make any recommendations to the Commission to take action against the Publix Companies, or their principals, concerning the matters that were the subject of the Order to Show Cause. Nothing in this Consent Decree, however, limits (among other things) the Commission's authority to consider and adjudicate any future formal complaint against Dr. Liebermann or the Publix Companies that may be filed pursuant to section 208 of the Communications Act, as amended, and to take any action in response to such formal complaint.

9. Consistent with the commitments they made in their Plea Agreements, Dr. Liebermann and Publix Network further agree immediately to relinquish their authorization to operate as common carriers, which shall have the same force and effect as revocation of such authorization by the Commission. Dr. Liebermann and the Publix Companies agree to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission.

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<sup>3</sup> See Substitute Information, *U.S. v. Raanan Liebermann and Publix Network Corporation*, Grim. No. 3:02CR55 (EBB) (filed September 30, 2004).

10. (a) Dr. Liebermann and the Publix Companies further agree to abide by any and all agreements entered into by and between any of them and the Department of Justice, including, but not limited to, any agreement regarding the forfeiture of assets to satisfy, in whole or in part, the restitution amount of \$2,000,000 set forth in the Plea Agreements. Dr. Liebermann and Publix Network Corporation further agree to abide by any and all orders issued by the United States District Court for the District of Connecticut, including but not limited to, any order regarding the payment of money or the forfeiture of assets to satisfy, in whole or in part, the restitution amount of \$2,000,000 as set forth in their Plea Agreements. All monies ultimately received by either the FCC or the Fund Administrator through the foregoing payment obligations or forfeiture will be credited towards the Reimbursement Amount.

(b) Dr. Liebermann and the Publix Companies, jointly and severally, further agree to pay the Reimbursement Amount in full within five (5) years from the Effective Date, or if they are unable to make full payment at that time, they agree not to contest a subsequent judicial finding that they are jointly and severally obligated to pay the full Reimbursement Amount.

(c) Dr. Liebermann and the Publix Companies agree to make payments of the Reimbursement Amount, made separate from and in addition to payments made under orders of restitution, by check, wire transfer or money order drawn to the order of the Fund Administrator and the check or money order must refer to FRN No. 0004-3412-51. See 47 C.F.R. § 1.80(h). Interest will accrue, according to the guidelines as set forth by the Internal Revenue Service,<sup>4</sup> on the balance of the Reimbursement Amount that has not been paid beginning 30 days from the Effective Date and will compound annually.

(d) Dr. Liebermann and the Publix Companies further agree to provide to the Bureau all financial statements provided to any federal official, probation officer, or probation entity after the Effective Date and until the Reimbursement Amount has been paid in full, and agree to report to the Bureau any payments made or assets forfeited to satisfy, in whole or in part, any orders of restitution.

11. Dr. Liebermann and the Publix Companies further release, waive and discharge the Fund Administrator from any and all claims to the \$2,381,440 held or controlled by the Fund Administrator that the Publix Companies claimed were due from the TRS Fund, but that were not paid by the Fund Administrator pending the resolution of this matter.

12. In express reliance on the covenants and representations contained herein, and to avoid further expenditure of scarce public resources, the Bureau agrees to termination of this Proceeding and resolution of the Order to Show Cause.

13. The Publix Companies and Dr. Liebermann represent and warrant that they shall not, for the purpose of circumventing any part of this Consent Decree, effect any change in their form of doing business or their organizational identity or participate directly or indirectly in any activity to form a separate entity or corporation which engages in acts prohibited in this Consent Decree or for any other purpose that would otherwise circumvent any part of this Consent Decree or the obligations of this Consent Decree. Nothing in the foregoing sentence shall be construed to prohibit the Publix Companies or Dr. Liebermann from effecting any change in their form of doing business or their organizational identity, or participating directly or indirectly in any activity to form a separate entity or corporation, where such change does not have the effect of circumventing any part of this Consent Decree.

14. The Parties' decision to enter into this Consent Decree is expressly contingent upon the signing of the Order by the Presiding Officer and the Order becoming a Final Order without revision,

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<sup>4</sup> See 26 U.S.C. § 6621(a)(2).

change, addition, or modification of this Consent Decree. The Parties agree that they may withdraw from this Consent Decree if any revision, change, addition, or modification is made to its terms.

15. The Parties agree that this Consent Decree shall become part of the record of this Proceeding only on its Effective Date.

16. If the Commission, or the United States on behalf of the Commission, brings a judicial action to enforce the terms of this Consent Decree, the Parties will not contest the validity of the Consent Decree, and Dr. Liebermann and the Publix Companies and their affiliates will waive any statutory right to a trial *de novo*.

17. The Publix Companies and their principals waive any rights they may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*

18. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

19. Any material violation of the Consent Decree, including failure to make payments required under the conditions in Paragraph 10 above, will constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

20. The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission, where compliance with the provision would result in a violation, that provision will be superseded by such Commission rule or order.

21. By this Consent Decree, Dr. Liebermann and the Publix Companies do not waive or alter their right to assert and seek protection from disclosure of any privileged or otherwise confidential and protected documents and information, or to seek appropriate safeguards of confidentiality for any competitively sensitive or proprietary information. The status of materials prepared for, reviews made and discussions held in the preparation for and implementation of Dr. Liebermann's and the Publix Companies' compliance efforts under this Consent Decree, which would otherwise be privileged or confidential, are not altered by the execution or implementation of the terms of this Order and no waiver of such privileges is made by this Consent Decree.

22. The Parties agree that, within five (5) business days after the date of this Consent Decree, they will file with the Presiding Officer a joint motion and draft order requesting that the Presiding Officer sign the draft order, accept the Consent Decree, and close the record. The Parties will take such other actions as may be necessary to effectuate the objectives of this Consent Decree.

23. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau,  
Federal Communications Commission

For Dr. Raanan Liebermann  
Publix Network Corporation  
Customer Attendants, LLC  
Revenue Controls Corporation  
Focus Group, LLC  
SignTel, Inc.



David H. Solomon  
Chief



Dr. Raanan Liebermann

3/11/05

Date

3/9/05

Date